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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,441	11/14/2003	Amber Gravett	020375-047700US	9387
20350 7590 12/12/2007 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER FIELDS, BENJAMIN S	
			ART UNIT 3692	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/714,441	<b>Applicant(s)</b> GRAVETT ET AL.	
	<b>Examiner</b> BENJAMIN S. FIELDS	<b>Art Unit</b> 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Introduction*

1. The following is a **FINAL** Office Action in response to the communication received on November 19, 2007. Claims 1-20 are now pending in this application.

### *Response to Amendments*

2. Applicants Amendment of the Specification has been acknowledged. As such, the Examiner withdraws all previously asserted Specification Objections.

3. Applicants Amendment has been acknowledged in that: **No Claims have been amended, canceled, or added**; hence, as such, **Claims 1-20 are pending in this application**.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Neofytides et al. (US PG Pub. No. 2002/0152168), [hereinafter Neofytides].

Referring to Claim 1: Neofytides shows a method for creating an open network stored account (Neofytides: Abstract) by a purchaser, the method comprising steps of: receiving a first message including a purchaser account identifier (Neofytides: Abstract; Figure 5a, Figure 11b//Neofytides teaches a system where a user must log in via usage of account information//), wherein the purchaser account identifier and other account information is entered by a purchaser with a web interface (Neofytides: Page 2, Paragraph 0025//Neofytides discusses a system where interaction amongst all parties occurs via a web [internet] interface//); processing the first message that is received with an application interface of a credit processing system (Neofytides: Page 2, Paragraph 0025; Figure 5a//Neofytides shows a credit system which communicates via an application interface through the internet//), wherein the purchaser account identifier is used to fund a stored account (Neofytides: Page 1, Paragraph 0021-0022//Neofytides discloses a stored fund value account system and method which is accessed by means of an account identifier//); returning a first message response with the application interface wherein the first message response can be used to determining if the first message response is consistent with the other account information (Neofytides: Page 2, Paragraph 0024-0026//Neofytide shows interfaces which verify, check, and maintain consistency throughout the system//), whereby it can be determined if a purchaser account can validly fund the stored benefit account (Neofytides: Page 6, Paragraph 0071-0073//Neofytides details a system which verifies funds are available within the process in order for transaction completion//); receiving a second message with the application interface; and processing the second message (Neofytides: Figure 5//

Neofytides allows multiple transaction account messages to take place across the interfaces available//), wherein: the second message includes recipient account information (Neofytides: Figure 5//Neofytides shows interfaces which contain account information//), the stored account is created with the recipient account information (Neofytides: Figure 5; Page 1, Paragraph 0021//Neofytides discloses a system for stored value fund accounts which contain account information//), the stored benefit account is backed by an account issuer, and the stored benefit account is accepted by a network of unrelated merchants who accept payments from the account issuer (Neofytides: Figures 5-6)

Referring to Claim 2: Neofytides teaches the method for creating the open network stored account comprising a step of processing formatted commands with the application interface (Neofytides: Figure 5-11//Neofytides depicts, by means of a series of flowcharts, and within disclosure, that executable commands are utilized to perform the main inventive concept//).

Referring to Claim 3: Neofytides discloses the method for creating the open network stored benefit account by the purchaser for the benefit of the recipient wherein the second message is not sent to the application interface if it is determined that the purchaser account cannot validly fund the stored benefit account (Neofytides: Figure 8// Neofytides displays system wherein checks and maintenance of sufficient funding is thoroughly completed//).

Referring to Claim 4: Neofytides teaches a method for creating the open network stored benefit account by the purchaser for the benefit of the recipient, further

comprising a step of sending a stored value card to the recipient for use with the stored benefit account (Neofytides: Figure 5a//Neofytides teaches a delivery of negotiable instruments being sent (i.e. cards, etc. to the payee//)).

Referring to Claim 5: Neofytides shows a method for creating the open network stored benefit account by the purchaser for the benefit of the recipient, further comprising a step of e-mailing the recipient with notification relating to creation of the stored benefit account (Neofytides: Figure 7//Neofytides shows that creation of an account using such system involves contact via electronic mail (e-mail)//).

Referring to Claim 6: Neofytides teaches a method for creating the open network stored benefit account by the purchaser for the benefit of the recipient, wherein the stored benefit account supports both stored value payments and credit payments to the network (Neofytides: Paragraph 0004, 0020-0022// Neofytides shows various types of value and/or credit payments are utilized//).

Referring to Claim 7: Neofytides discusses a method for creating the open network stored benefit account by the purchaser, further comprising steps of: determining if the account issuer of the purchaser account is supported by the credit processing system (Neofytides: Page 1, Paragraph 0021-0023; Figure 5//Neofytides describes a method which allows a user to authenticate, establish, and utilize the system, hence, the user account must be compatible or supported by the system//); and opening the stored benefit account with an alternative credit processing system where the account issuer is determined to be unsupported by the credit processing system

(Neofytides: Figures 5-6//Neofytides shows, that if the user may not be supported by the system, allowance to make such changes can be made/adjusted//).

Referring to Claim 8: Claim 8 is rejected under the same basis, as is Claim 1 as indicated supra.

Referring to Claim 9: Claim 9 is rejected under the same basis, as is Claim 2 as indicated supra.

Referring to Claim 10: Neofytides discloses a method for creating the open network stored benefit account by the payor for the benefit of the payee wherein the second message is not sent to the application interface if it is determined that the payor account cannot validly fund the stored benefit account (Neofytides: Figure 8//Neofytides displays system wherein checks and maintenance of sufficient funding is thoroughly completed//).

Referring to Claim 11: Neofytides shows a method for creating the open network stored benefit account by the payor for the benefit of the payee, further comprising a step of sending a stored value card to the payee for use with the stored benefit account (Neofytides: Figure 5a//Neofytides teaches a delivery of negotiable instruments being sent (i.e. cards, etc. to the payee//)).

Referring to Claim 12: Neofytides shows a method for creating the open network stored benefit account by the payor for the benefit of the payee, further comprising a step of e-mailing the payee with notification relating to creation of the stored benefit account (Neofytides: Figure 7//Neofytides shows that creation of an account using such system involves contact via electronic mail (e-mail)//).

Referring to Claim 13: Claim 13 is rejected under the same basis, as is Claim 6 as indicated supra.

Referring to Claim 14: Neofytides teaches a method for creating the open network stored benefit account by the payor for the benefit of the payee, further comprising steps of: determining if the account issuer of the payor account is supported by the credit processing system (Neofytides: Figure 5a//Neofytides displays a method wherein the user is supported by the system//); and opening the stored benefit account with an alternative credit processing system where the account issuer is determined to be unsupported by the credit processing system (Neofytides: Figure 5a//Neofytides displays a method wherein the user may not be supported by the system, and can, however, achieve access//).

Referring to Claim 15: Claim 15 is rejected under the same basis, as is Claim 1 as mentioned supra.

Referring to Claim 16: Claim 16 is rejected on the same basis, as is Claim 2 as mentioned supra.

Referring to Claim 17: Neofytides discloses a method for creating the open network stored benefit account by the payor for the benefit of the payee wherein the second message is not sent to the application interface if it is determined that the payor account cannot validly fund the stored benefit account (Neofytides: Figure 8//Neofytides displays system wherein checks and maintenance of sufficient funding is thoroughly completed – Until sufficient funding is achieved completion of the transaction can not take place//).



Referring to Claim 18: Neofytides shows a method for creating the open network stored benefit account by the payor for the benefit of the payee, further comprising a step of sending a stored value card to the payee for use with the stored benefit account (Neofytides: Figure 5a//Neofytides teaches a delivery of negotiable instruments being sent (i.e. cards, etc. to the payee//)).

Referring to Claim 19: Neofytides discloses a method for creating the open network stored benefit account by the payor for the benefit of the payee, further comprising a step of e-mailing the payee with notification relating to creation of the stored benefit account (Neofytides: Figure 7//Neofytides shows that creation of an account using such system involves contact via electronic mail (e-mail//)).

Referring to Claim 20: Claim 20 is rejected under the same basis, as is Claim 6 as mentioned supra.

### ***Response to Arguments***

6. Applicants arguments filed 13 November 2007 have been fully considered but are not persuasive. Applicant argues:

#### **Argument A**

In embodiments, the present invention provides a method for creating an open network stored benefit account. A purchaser can create the open network stored benefit account. An example of a open network stored benefit account is a gift card from a particular branded credit card association, such as VISA <sup>TM</sup>. In embodiments, a first

message is received at a first interface and includes a purchaser account identifier. The purchaser account identifier is used to fund a stored benefit account. A first message response is returned that can be used to determine if a first message response is consistent with the other account information. A second message is received with the application interface and the second message includes recipient account information. The stored benefit account is created with the recipient account information and is backed by an account issuer. In contrast, Neofytides does not create a stored benefit account but provides methods for transferring value using a stored benefit account. See Neofytides, ¶ [0021] ("The present *invention facilitates online money transfers in or out of a user's stored value fund.*" (*Emphasis added.*)). Neofytides does not create the stored value fund. See Neofytides, ¶ [0071] ("The depicted portion of the process begins in step 804 where the payee 130, payor 110 and amount are determined for the money transfer. In step 812, it is determined *if the stored value fund of the payor 110 has enough money to fund the transfer to the payee 130.*" (*Emphasis added.*)). That is, the stored value fund already exists before the methods in Neofytides even begins.

#### **Response to Argument A**

The Examiner respectfully disagrees. Neofytides discusses the usage of a stored benefit account and as such discloses the creation of a stored value benefit fund account. It is inherent to, by means of usage of a stored value account in Neofytides to have an account which is already created.

#### **Argument B**

Independent claims 1 and 8 and dependent claims 2-7 and 9-14 require that a first message be received with a purchaser or payor account identifier. Neofytides does not show a message being received with a purchaser or a payor account identifier to fund the stored value fund. Rather, Neofytides shows a transfer from a stored value fund. See Neofytides, ¶ [0021] ("A period expiring and/or a threshold amount being met can cause the *transfer of money in or out of the stored value fund.*" (*Emphasis added.*)). Applicants believe that reliance upon Neofytides to teach receiving a first message including a purchaser or payor account identifier is misplaced and improper.

#### **Response to Argument B**

The Examiner respectfully disagrees. Neofytides at Page 2, Paragraphs 0026 to 0029 teach reception of account identification parameters and means for purchaser and/or account identification.

#### **Argument C**

Independent claims 1 and 8 and dependent claims 2-7 and 9-14 require that it be determined whether the purchaser account or the payor account can fund the stored value benefit account. Neofytides does not show a step of determining if the purchaser account or the payor account can fund the stored value benefit account. Rather, Neofytides simply adds money into the stored value account. See Neofytides, ¶ [0072] ("Where there is not sufficient funds in the stored value fund, processing *continues to step 816 to load funds.*" (*Emphasis added.*)). This process is different than determining if a purchaser or payor account can even load funds into the stored value account. Applicants believe that the Examiner's reliance upon Neofytides to teach determining if

the purchaser account or the payor account can fund the stored value benefit account is misplaced.

### **Response to Argument C**

The Examiner respectfully disagrees. The Examiner calls attention to the Claim language within the instant application wherein applicant claims “it can be determined ...” As such, this language is taken to be optional; Neofytides discloses that if funds are not available, processing continues on to load funds. Neofytides indirectly checks to verify sufficiency within the account, and where none can be placed, adds funds to the account.

### **Argument D**

Independent claims 1 and 8 and dependent claims 2-7 and 9-14 require that a second message be received that includes either recipient account information or payee account information and the stored value account is created from the account information. Neofytides does not show such a step of receiving a second message with account information and creating the stored value account with the account information. Rather, Neofytides describes credit card authorization messages that transfer money in or out of an existing account, not an account that is being created. See Neofytides, ¶ [0078]. These transaction messages in Neofytides are not the same. Applicants believe that the Examiner has misplaced his reliance upon Neofytides to teach a second message be received that includes either recipient account information or payee account information and the stored value account is created from the account information.

### **Response to Argument D**

The Examiner respectfully disagrees. Neofytides describes credit card authorization messages that transfer money in or out of an existing account, not an account that is being created. Applicant claims that Neofytides does not show such a step of receiving a second message with account information and creating the stored value account with the account information. The Examiner notes that without a stored value account previously created, there could be no transaction by the account, whether it be in or out of the account.

The arguments as filed have been fully considered but are not persuasive. As the remaining claims depend directly or indirectly from the independent claims mentioned above, and have not been rebutted, the Examiner maintains all previously asserted rejections.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN S. FIELDS whose telephone number is 571.272.9734. The examiner can normally be reached on MONDAY through THURSDAY between the hours of 8AM and 8PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KAMBIZ ABDI can be reached at 571.272.6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Benjamin S. Fields  
29 November 2007

  
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